



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,072	09/27/2005	Henk Kole	PHNL030362US	4351
38107 7590 01/30/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS 595 MINER ROAD CLEVELAND, OH 44143			EXAMINER MOORE, MARGARET G	
			ART UNIT	PAPER NUMBER
			1712	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/551,072

Applicant(s)

KOLE ET AL.

Examiner

Margaret G. Moore

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 to 14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1712

1. Claims 8 to 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, the various substituents "X", "Y" and "Z" and the subscripts "p", "q" and "r" are not defined. This makes the breadth of the claim unclear.

Similarly, in claim 9, "R-A" is not defined.

In claim 14 the phrase "with the formula" is not followed by any formula. The claim is incomplete.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 to 3, 5, 8 to 11, 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Schiestel et al.

Schiestel et al. teach an object having a microbicide coating. Paragraphs 9 and on teach that the article can be a container for medical purposes such as a vial or bottle. Also taught are medical instruments. This meets the requirement of a medical apparatus. Starting on paragraph 14 this reference teaches various silane coatings for the object. The coatings are formed from an organosilane and water. See for instance

Art Unit: 1712

paragraph 14 and paragraph 41, which specifically teaches a sol-gel coating method. This meets the requirements of claims 1, 2 and 13. The silanes meet the formula of claims 8 to 11. See paragraph 34, which teaches the addition of silica. Also see Example 3. This meets claim 3. For claim 5, note that the examples cure at a temperature of 80° C on a PE substrate.

5. Claims 4, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiestel et al.

While not preferred, Schiestel et al. teach that the composition therein can contain some silane compounds having no Si-C bond. This corresponds to a tetraalkoxysilane. See for instance paragraph 26 which teaches as much as 60 mol% of such a silane. Since ethoxy is a preferred alkoxy group (paragraph 16), the skilled artisan would have found the addition of tetraethoxysilane to the coating composition of Schiestel et al. to have been obvious.

For claims 7 and 12, the Examiner notes that patentees do not specifically teach a tabletop of a diagnostic system. However they do teach using the composition to coat trays used in the medical sector and generally any surface that comes into contact with the human body and is required to be free from germs. The skilled artisan would readily recognize that a tabletop of a diagnostic system quite frequently comes into contact with the human body and should be free from germs. Thus it would have been obvious to use the coating composition in Schiestel et al. to coat such a tabletop in an effort to take advantage of the microbicide properties thereof.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiestel et al. in view of Shoup et al.

Schiestel et al. teach the addition of an acid hydrolysis catalyst (paragraph 41). In a similar composition, Shoup et al. teach that the addition of acids such as malonic or itaconic acid not only provides hydrolysis but also provides stability to the coating solution as well as enhancing abrasion resistance (paragraph 43).

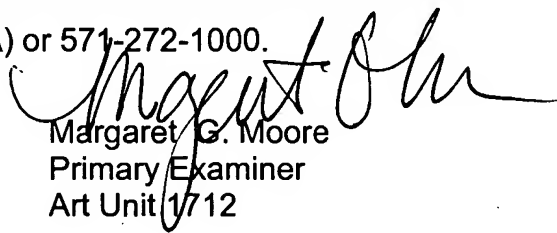
Art Unit: 1712

Thus one having ordinary skill in the art would have been motivated to use a malonic or itaconic acid in the composition of Schiestel et al. in an effort to take advantage of the benefits and properties thereof, as disclosed by Shoup et al.

7. The remaining references are cited as being of general interest. Some teach and/or suggest at least one of the claims, but are not believed to be as close or closer to the claims than the prior art references cited supra. No rejections have been made over these references at this time to avoid redundancy.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
1/27/07